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## Hong Kong

## Biotechnology

## Annual

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**Report Highlights:**

Hong Kong currently has no regulatory legislation related to agricultural biotechnology and does not produce or grow biotech crops in field trials. Biotech foods are not distinguished from conventional foods and are subject to the same food regulations. Hong Kong is in the process of drafting legal framework to implement the Cartagena Protocol on Biosafety. However, it has not set any timetable for its ratification for full implementation of the new legislation to comply with the Protocol. The foreseeable impact is that U.S. exports to Hong Kong in the future if containing LMOs may be obligated to meet all documentation requirements. In 2004, U.S. exported \$1.09 billion of agricultural and food products to Hong Kong and \$6.87 million of which may have contained LMOs.

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## SECTION I. EXECUTIVE SUMMARY

Currently, the Hong Kong government does not have any specific biotechnology regulations with regard to the production or labeling of biotech food products. The Hong Kong government makes no distinction between conventional and biotech foods. All are subject to the same food safety regulation. However, the Hong Kong government is planning to introduce new legislation, which will provide a legal framework for the implementation of the Cartagena Protocol on Biosafety. The Hong Kong government has not set any deadline for the enactment of the new legislation. In 2004, the United States exported a total of \$1.09 billion of agricultural and food products to Hong Kong, ranking as the 11<sup>th</sup> largest U.S. export market. Of the \$1.09 billion exports, maize, soybean, tomatoes and potatoes exports to Hong Kong totaled \$6.87 million. Once the legislation is enacted, U.S. exports to Hong Kong carrying LMOs (Living Modified Organisms) must fulfill all documentation requirements according to the Protocol.

According to the Protocol, the exporting party is required to give advance notification to the competent authority of the importing country and seek its approval before it can export LMOs which are intended for introduction to the environment. Hong Kong does not have any significant agricultural production, nor any production of biotech crops. U.S. exports of agricultural products carrying LMOs for intentionally released to the environment are negligible if any. Hence, Hong Kong's new legislation should not have any impact on U.S. exports in the context of advance notification and license requirements resulting from the existence of LMOs.

Out of the \$1.09 billion of U.S. agricultural and food exports to Hong Kong, consumer-oriented products accounted for \$522 million. These products will be most likely subject to impact if Hong Kong adopts a mandatory labeling policy for biotech foods. As of today, there are no signs that the Hong Kong government is planning to adopt any policy on mandatory labeling for biotech foods. The latest that the Hong Kong government announced was in March 2003 that it was considering to introduce mandatory pre-market safety assessment supplemented by voluntary labeling in association with biotech foods. However, the Hong Kong government has not announced further progress on the project following the initial delivery of the proposal to the Legislative Council two years ago.

### U.S. Exports of Agricultural and Food Exports to Hong Kong in 2004

Products	US\$ million	% of U.S. total exports	Ranking
<b>Agricultural, Fish &amp; Forestry Total</b>	<b>1,090</b>	<b>2%</b>	<b>11</b>
1005 Corn (Maize)	5.75	0%	43
0701 Potatoes, fresh or chilled	0.87	1%	6
0702 Tomatoes, fresh or chilled	0.02	0%	19
Soybeans	0.23	0%	41
<b>Sub-total</b>	<b>6.87</b>	<b>0%</b>	
<b>Consumer-Oriented Ag. Total</b>	<b>522.00</b>	<b>2%</b>	<b>8</b>

Source : U.S. Department of Commerce, Bureau of Census

## SECTION II. BIOTECHNOLOGY TRADE AND PRODUCTION

Hong Kong does not commercially produce any biotechnology crops, not even for field trials.

Farming is insignificant in Hong Kong. The land use for vegetable, flower, field crop, and orchard are 330 ha, 200 ha, 30 ha and 300 ha respectively. The 2004 agricultural production amounted to \$145 million, comprising \$38 million of crop production, \$70 million of livestock production and \$37 million of poultry production. In recent years, the Hong Kong government has been promoting organic farming so as to find a niche market for Hong Kong's grown vegetables amidst the severe competition from imports from China. The livestock industry is diminishing. In essence, farming is insignificant with very limited future prospects.

Hong Kong does carry out research on biotech rice at in the Chinese University of Hong Kong. Field trials are conducted in China. One of the research projects is by Professor Samuel Sun, who in co-operation with the National China Hybrid Rice Research & Development Center, conducts research to improve the quality and nutritional value of super hybrid rice by utilizing transgenic plant production methods. According to Professor Sun, 50 percent of rice produced in China is of hybrid type. The yield is 30 percent higher than that of conventional rice. Professor Sun's research project is to improve the lysine content of the super hybrid rice. The crop has already been subject to field trial in China for two years.

On the trade front, Hong Kong import regulations regard biotech products as conventional products. Importers/exporters are not required to make any special declarations if products are of biotech origin. However, many of the few soybean users in Hong Kong specifically request non-GM soybeans because of market-driven factors, particularly if their products are exported to overseas markets. In 2004, Hong Kong imported merely 4 percent of its soybean demand from the United States while 91 percent was supplied by Canada.

Hong Kong is not a food aid recipient and is unlikely to be a food aid recipient in the future.

## SECTION III. BIOTECHNOLOGY POLICY

Presently, Hong Kong does not have any regulatory measures on biotech products. In the area of production or field testing, there are no special pieces of legislation regulating biotech crops. Neither is there any legislation for the labeling for packaged foods or feeds. Hong Kong does not maintain a list of approved biotechnology crops. Biotech crops can be imported to Hong Kong as conventional crops and are subject to the same legislations.

Despite Hong Kong not having any biotechnology policy at present, in recent years the Hong Kong government has announced proposals of biotechnology policy in the context of the Cartagena Protocol. The Hong Kong government is now at the stage of drafting legislation for implementing the Protocol requirements. However, there are no signs that the Hong Kong government will move on mandatory pre-market safety assessment and mandatory labeling for pre-packaged foods.

### Cartagena Protocol on Biosafety

The Environment, Transport and Works Bureau takes the lead on the implementation of the Cartagena Protocol on Biosafety. While it is a policy bureau, the technical responsibility lies with the Agriculture, Fisheries and Conservation Department (AFCD). AFCD is primarily responsible to provide infrastructure support services to promote agricultural production and sustainable development of agriculture and fisheries in Hong Kong. In 2002, AFCD created a

division called Biodiversity Conservation Division. Among other duties, its role is to prepare Hong Kong to implement the Cartagena Protocol.

Hong Kong at present is not a party of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety. Hong Kong is a Special Administrative Region of China. The application of international agreements to Hong Kong for agreements to which China is a party will be decided by China in accordance with the circumstances and needs of Hong Kong, after seeking the views of the Hong Kong government. China is a party to the Convention since 1993 and will be a party to the Protocol effective September 2005. The Hong Kong government has obtained the agreement-in-principle of China to extend the application of both the Convention and the Protocol to Hong Kong when it is adequately prepared. In essence, the Protocol will not be extended to Hong Kong simultaneously upon China's ratification of the Protocol in 2005.

With this background, the Hong Kong government first announced its intention to apply for the extension of the Cartagena Protocol in late 2003. To implement the regulatory controls over the trans-boundary movement of LMOs stipulated under the Protocol, the Hong Kong government has announced its intention to enact a new legislation without providing any deadline for completion. The Hong Kong Government had sent delegates to attend the Protocol's COP-MOP (Conference of the parties serving as the meeting of the Parties) as part of China's delegation to keep track of the development. Government officials revealed that they are planning to take into account the developments of the Protocol when drawing up the detailed regulatory framework for implementing the Protocol in Hong Kong. Presently, the government is at the stage of drafting the bill, which will encompass the following key provisions.

- a) Establishment of a licensing system for the Agriculture, Fisheries and Conservation Department (AFCD) to process applications for first imports of LMOs (Living Modified Organisms) into Hong Kong for intentional introduction into the environment in accordance with the Advance Informed Agreement (AIA) procedure of the Protocol;
- b) A requirement that an exporter in Hong Kong shall send a notification enclosing the risk assessment report to the competent authority of the importing party and obtain its prior consent for the export of the LMO for first intentional introduction into the environment at the importing end;
- c) A requirement that approval shall be obtained from AFCD prior to the domestic use or export of a locally developed LMO for intentional introduction into the environment or for direct use as food, feed or for processing;
- d) Documentation requirements on trans-boundary movements of LMOs;
- e) Penalties for violation of the import, export or documentation requirements set out in (a) to (d) above;
- f) Other miscellaneous matters including designation of the Director of AFCD as the competent authority to discharge the Protocol's obligations in Hong Kong; and
- g) Implementation of measures to fulfill our obligations under the Protocol following future decisions made by Parties to the Protocol, e.g. setting standards for the identification, handling, packaging and transport of LMO.

## **Mandatory Pre-market Safety Assessment & Voluntary Labeling**

The Health, Welfare and Food Bureau (HWFB) is the policy bureau responsible for the policy direction over biotech foods. Its executive arm, the Food and Environmental Hygiene Department (FEHD), is the regulatory department for food safety. Both the pre-market safety assessment and labeling of biotech foods are under the portfolio of the Bureau while the Department is executing the policy decisions of the bureau.

The Hong Kong government proposed mandatory pre-market safety assessment and voluntary labeling for biotech foods in March 2003. The project is now on hold.

Towards the end of 1999, there were requests for a policy for the labeling of biotech foods mainly on the grounds of consumers' right to know. The Hong Kong government vigorously launched public consultations and published a proposal in 2001 offering different options to label prepackaged biotech foods. In March 2003, the Hong Kong government delivered a revised proposal to the Legislative Council on the regulation of biotech foods, which would require mandatory pre-market safety assessment supplemented by voluntary labeling. The proposal also indicated that a public consultation on mandatory pre-market safety assessment will be launched in late 2003, but has not yet been conducted as of the date when this report was written. The department is instead focusing on the drafting of the nutrition labeling policy, which is said to be the Department's priority.

According to the latest proposal, the Hong Kong government would introduce legislative measures mandating pre-market safety assessment. Importers or manufacturers of food containing biotech ingredients would be required to submit documents and certificates to the Food and Environmental Hygiene Department (FEHD) prior to importing the food to Hong Kong, detailing the safety assessments that have been conducted by the developer of the biotech ingredients. The results of evaluations conducted on the ingredients by overseas regulatory authorities would also be submitted for the pre-market safety assessment. FEHD would assess risks associated with toxins, allergies, nutrition, etc., based upon guidelines developed by Codex. Foods containing biotech ingredients that pass the safety assessment could then be sold in Hong Kong.

FEHD would develop a list of approved biotech ingredients based on the applications made by importers and manufacturers. The list would be publicized and updated regularly for public reference. Importers and manufacturers would bear the responsibility of determining whether their products contain only approved biotech ingredients and, if so, whether the foods may be imported without any further safety assessment. For foods containing biotech ingredients not on the approved list, an application to FEHD for pre-market safety assessment would be required.

Regarding products already in the market, FEHD would require importers or manufacturers to provide risk assessment reports if products contain biotech ingredients. Such biotech products could be sold in Hong Kong within a grace period pending document review and approval.

The proposal empowers FEHD to take food samples from the market to periodically test biotech. Unapproved biotech products would be required to be removed from the market, and the importers would be prosecuted.

As for voluntary labeling under the proposed scheme, the government would issue a set of guidelines on the labeling of biotech food and encourage the industry to adopt voluntary labeling in accordance with the guidelines. The proposed guidelines would standardize terminologies and provide reference on developing truthful labels.

#### **SECTION IV. MARKETING ISSUES**

The green groups and consumer organizations are key parties in Hong Kong advocating mandatory labeling of biotech foods. Their rationale is based on consumers' right to know. The safety issue is not their major argument. The request of green groups and consumer organizations has gained support of certain Legislative Council members. In January 2000, Legco adopted a motion to "draw on the experience of most member states of the European Union and expeditiously legislate for a labeling system" and to "conduct strict examinations and tests" on biotech foods. On June 2003, Legco passed a motion calling on the government to expeditiously establish a "voluntary first, and then mandatory" approach to a labeling system for biotech foods.

However, the food industry is generally opposed to mandatory labeling of biotech foods on the grounds that it would limit the choices of consumers, reduce variety of food supplies to Hong Kong and add burden to consumers and the industry alike.

On the whole, general consumers do not have a concern whether food contains biotech ingredients. Prices and nutritional values are of bigger concern in general. However, local food processors would specify the use of non-biotech soybeans particularly if their products are exported overseas.

#### **SECTION V. CAPACITY BUILDING AND OUTREACH**

There are not any U.S. government funded outreach activities carried out in Hong Kong that relate to agricultural biotechnology.